IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 745/2006
(Anwar Khan Vs. State of Rajasthan & Ors.)

Date of Order : 14/11/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Pradeep Shah for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 02.5.2006 passed by Judicial Magistrate, Pindwara (for short 'the trial court' hereinafter) whereby the trial court dismissed the application filed by the petitioner under Section 451 Cr.P.C. seeking custody of the Truck Turbo bearing Registration No.GJ-8U-2353 which has been seized by the police in Crime Report No. 36/06.

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the order impugned.

The petitioner is accused in the aforesaid crime

report and allegations against the present petitioner are for the offence under Sections 407 and 420 IPC. The petitioner is not the registered owner of the said truck. From the order impugned, it appears that the said truck was purchased by one Mohd. Harun on being financed by Ashok Layland Finance Company, Ahmedabad. It appears that without making payment of all the installments to the Financier, the vehicle happened to come in the hands of the present petitioner, may be in a capacity of driver or by agreement to sell as alleged by the petitioner. The trial court dismissed the application on the ground that the petitioner is neither the owner nor the financier. In my view, the petitioner being accused in the case and the fact that the petitioner is not the owner of the vehicle and the owner of the vehicle has not sought the custody of the vehicle, the trial court was justified in declining to release the vehicle in favour of the petitioner.

The petition has no force and it is therefore, dismissed.

(H.R.PANWAR),J.

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